

Appl. No. 10/245,178
Amdt. dated September 24, 2004
Reply to Office Action of July 2, 2004

REMARKS

This is responsive to the Office Action dated July 2, 2004 in which claims 11 and 22-26 were allowed and claims 2, 5, 13 and 16 were merely objected to.

Applicants greatly appreciate the favorable treatment of these claims.

In light of the indication of allowance of claims 2, 5, 13 and 16, Applicant has amended claims 2 and 13 to be placed in independent form without changing the scope of those claims. Likewise, claims 5 and 16 have been amended to depend directly from claims 2 and 13, respectively.

Claims 1, 3, 4, 6-10, 12, 14, 15 and 17-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,265,283 issued to Farquhar in view of U.S. Patent No. 3,894,681 issued to Arneson. The rejection alleges that Farquhar teaches everything recited in the rejected claims except that the carton having at least one arcuate corner and an aperture at a juncture of the arcuate corner with a side wall of the carton. The rejection further alleges that Arneson teaches such a carton with at least one arcuate corner as allegedly shown in Fig. 1 of Arneson and that it would have been obvious to provide the carton of Farquhar with at least one arcuate corner with an aperture at the juncture of the corner with the side wall of the carton in view of the teachings of Arneson. Applicant respectfully traverses this rejection and requests reconsideration based upon the following comments and observations.

Appl. No. 10/245,178
Amdt. dated September 24, 2004
Reply to Office Action of July 2, 2004

Applicant's invention of the rejected claims is directed to a carton, typically constructed from paperboard or the like, in which an arcuate corner identified by reference numeral 28 in Applicant's specification is formed at one or all of the corners intersecting the end walls and the adjacent bottom/top wall. The arcuate corner, as well as the blank used to form the carton, is formed integrally with an adjacent wall such as the top/bottom wall and, as previously stated, and is formed from the carton material.

In review of the Arneson reference, Applicant respectfully asserts that Arneson does not teach, disclose or otherwise suggest an arcuate corner as recited in Applicant's rejected claims. Arneson does not have a carton (i.e., the paperboard structure) with an arcuate corner. By reviewing Figs. 1-3 of Arneson, it is clear that there are openings in the carton at the juncture of the end walls and the bottom wall and such openings extend the entire width of the carton from side wall to side wall. The cans identified by reference C in Arneson are exposed at these corner openings. As a result, the overall package (i.e., the paperboard carton and the contents or cans in the carton) does provide an arcuate profile at the corners; however, that arcuate profile is as a result of the arcuate configuration of the cans which are exposed in the openings. The carton itself does not have arcuate corners as in Applicant's claimed invention.

Therefore, Applicant respectfully asserts that the arcuate corner feature recited in the rejected claims is neither disclosed, taught nor suggested by Arneson which provides a carton having an opening at the corresponding location. One or

Appl. No. 10/245,178
Amdt. dated September 24, 2004
Reply to Office Action of July 2, 2004

ordinary skill in the art would not be lead to modify the Farquhar patent to arrive at Applicant's claimed invention by Arneson because the Arneson reference does not teach such a feature.

For at least these reasons, Applicant respectfully asserts that the § 103 rejection is improper for failing to teach, disclose or otherwise suggest every claimed feature of Applicant's invention. Applicant respectfully requests reconsideration of the § 103 rejections.

To further emphasize the distinction between Applicant's invention and those shown in the cited references, Applicant has added new claims 27-30, each depending from independent claims 1 or 12. Claims 27 and 29 recite that the arcuate corner is integrally formed with either the end wall or the bottom wall. Claims 28 and 30 each recite that the arcuate corner is paperboard. Neither of these features is disclosed, taught nor suggested in the Arneson reference. Therefore, Applicant respectfully asserts that these new claims are likewise allowable over the prior art of record.

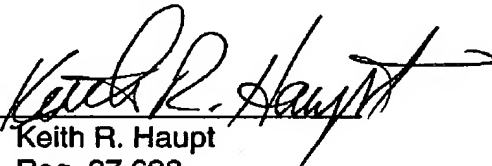
As a result of the amendments to the claims and the remarks given herein, applicant respectfully asserts that claims 1-30 as presented herein are in condition for allowance and request notification of same at the Examiner's earliest convenience. If the Examiner feels that any matter in this case requires further

Appl. No. 10/245,178
Amdt. dated September 24, 2004
Reply to Office Action of July 2, 2004

attention prior to issuing a Notice of Allowance, he is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By 
Keith R. Haupt
Reg. 37,638

2700 Carew Tower
Cincinnati, Ohio 45202
(513) 241-2324
FAX (513) 421-7269
khaupt@whepatent.com (email)
K:\RWZ\76\AMENDMENT.wpd